



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,860	08/11/2005	Burkit Mainin	1-37640	7994

43935 7590 09/28/2007
FRASER CLEMENS MARTIN & MILLER LLC
28366 KENSINGTON LANE
PERRYSBURG, OH 43551

EXAMINER

RODRIGUEZ, JOSEPH C

ART UNIT	PAPER NUMBER
----------	--------------

3653

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

09/28/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

miller@fraser-ip.com
sloan@fraser-ip.com
crooks@fraser-ip.com

Office Action Summary

Application No.

10/523,860

Applicant(s)

MAININ ET AL.

Examiner

Joseph C. Rodriguez

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/8/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application 2002/1085.1, filed in Kazakhstan on 8/19/2002. It is noted, however, that applicant has not filed a certified copy of this application as required by 35 U.S.C. 119(b).

Specification

The abstract of the disclosure is objected to for improper language. Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. *It should avoid using phrases which can be implied*, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Further, the specification states "loading unit 2" on page 4 and then later on states "loading unit 7". Correction is required.

Claim Objections

The claim is objected to as the form of the claim is improper. Applicant is advised to thoroughly review MPEP 608.01(m) and 37 CFR 1.75(i) and amend the claim to the guidelines contained therein. For instance, where a claim sets forth a plurality of elements or steps, as in the instant claim, each element or step should be separated by a line indentation.

Further, it is recommended that Applicant introduce claim features with the proper article and then refer to the feature with a "the" or "said" after establishing proper antecedent basis. For example, in claim 1, the claim language should read "a sieve" when introducing the sieve feature, then Applicant can refer to "the sieve" later on in the claim. Applicant's claim is replete with this type of problem, thus rendering claim interpretation exceedingly difficult.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitations "the upper trough", "the sieve", and "the lower one" (ln. 1). There is insufficient antecedent basis for these limitations in the claim.

Art Unit: 3653

Claim 1 recites the limitation "the processing" (ln. 3). There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the endless stripe" (last ln.). There is insufficient antecedent basis for this limitation in the claim.

Further, the claim language "...other, then, drive, units...."; "flexible membrane and supports being different due to the fact the troughs are hinged between each other via crankshafts"; and "...as for membrane, it is made in the form of the endless stripe..." is nonsensical and thus indefinite. Examiner requests clarification and advises applicant to carefully review the claim to ensure every element has proper antecedent basis. The claims have been interpreted as set forth below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by WO 02/13974 A1 ("WO '974").

WO '974 (Fig. 1-3) teaches a dynamic separator consisting of an upper trough (above 2) with a sieve (2) and a lower trough (4) hinged between each and other (see hinges near 5, 6);

Art Unit: 3653

a drive (inherent), units for loading material, water supplying and discharging products of the processing (Fig. 1),

a flexible membrane (3), wherein the supports are different and the troughs are capable of being hinged between each other via crankshafts and the membrane is made in the form of an endless stripe, the edges of which are attached to the troughs (Fig. 2; English Abstract).

Conclusion

Any references not explicitly discussed above but made of record are considered relevant to the prosecution of the instant application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Joseph C Rodriguez** whose telephone number is **571-272-6942** (M-F, 9 am – 6 pm, EST). The Supervisory Examiner is Patrick Mackey, **571-272-6916**. The **Official** fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

The examiner's **UNOFFICIAL Personal fax number** is **571-273-6942**.

Further, information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

Status information for published applications may be obtained from either Private PMR or Public PAIR. Status information for unpublished applications is available through Private PMR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>

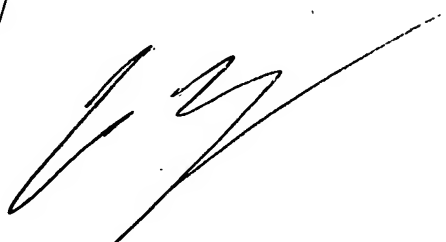
Art Unit: 3653

Should you have questions on access to the Private PMR system, contact the
Electronic Business Center (EBC) at **866-217-9197** (Toll Free).

Signed by Examiner /Joseph Rodriguez/

Jcr

September 18, 2007

A handwritten signature in black ink, appearing to be 'Jcr', written over a horizontal line.